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204536

January 22, 2002



*via Hand Delivery*

Hon. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423

**Re: *Otter Tail Power Company v. The Burlington Northern and  
Santa Fe Railway Company, Docket No. 42071***

Dear Secretary Williams:

Enclosed for filing in the above-captioned matter are the original and ten (10) copies of the Answer of Defendant The Burlington Northern and Santa Fe Railway Company. A copy of the filing is also included on the attached diskette in WordPerfect 6.1.

Please date stamp the extra copy of this cover letter and return it to the messenger who delivered this filing.

Sincerely,

Brooke L. Gaede

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Office of the Secretary

JAN 23 2002  
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Enclosure

WASHINGTON

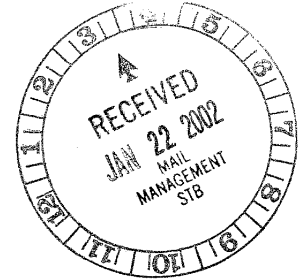
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LOS ANGELES

LONDON

204536

BEFORE THE  
SURFACE TRANSPORTATION BOARD



OTTER TAIL POWER COMPANY

Complainant,

v.

THE BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY

Defendant.

Docket No. 42071

ANSWER OF THE BURLINGTON NORTHERN  
AND SANTA FE RAILWAY COMPANY

Defendant The Burlington Northern and Santa Fe Railway Company ("BNSF") hereby answers the Complaint filed by complainant Otter Tail Power Company ("Otter Tail") in this proceeding.

COMPLAINT

BNSF responds to the allegations of each separately numbered paragraph of the Complaint as follows:

1. BNSF lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Complaint.
2. BNSF lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 of the Complaint.

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3. BNSF admits the first sentence in paragraph 3 of the Complaint. BNSF lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the second, third and fourth sentences in paragraph 3 of the Complaint. As to the fifth sentence, BNSF denies the allegations, except BNSF states that Otter Tail purchases rail transportation for the delivery of coal from the PRB to the location of the Big Stone plant. BNSF denies the allegations in the sixth sentence of the Complaint. BNSF has insufficient knowledge to form the basis for an answer as to the seventh sentence, except BNSF states that Otter Tail supplies rail cars for the delivery of coal by BNSF to the location of the Big Stone plant.
4. BNSF admits the allegations in paragraph 4 of the Complaint, except that it denies that the Board has jurisdiction over the rates challenged in this proceeding.
5. BNSF admits that it is the only rail carrier that serves the location of the Big Stone plant.
6. BNSF admits that it serves the PRB-origin mines that have produced coal consumed at Big Stone in the past.
7. BNSF admits the allegations of paragraph 7 of the Complaint.
8. BNSF admits the allegations of paragraph 8 of the Complaint.

9. BNSF admits the allegations of paragraph 9 of the Complaint.
10. Paragraph 10 purports to characterize the specific provisions of Common Carrier Pricing Authority No. 90062. The Common Carrier Pricing Authority No. 90062 speaks for itself and BNSF denies any characterization of the terms of that Pricing Authority that are inconsistent with its express terms.
11. BNSF denies the allegations of paragraph 11 of the Complaint.
12. BNSF denies the allegations of paragraph 12 of the Complaint.
13. BNSF denies the allegations of paragraph 13 of the Complaint and BNSF specifically denies that an order granting the relief sought would be appropriate.
14. BNSF denies that Otter Tail is entitled to reparations or interest.
15. Paragraph 15 of the Complaint states a legal conclusion, therefore no response by BNSF is required.
16. Paragraph 16 of the Complaint states a legal conclusion, therefore no response by BNSF is required.
17. Paragraph 17 of the Complaint states a legal conclusion, therefore no response by BNSF is required.

**OTTER TAIL' s PRAYER FOR RELIEF**

BNSF denies that an order granting any relief sought by Otter Tail in this proceeding would be appropriate.

**DEFENSES**

1. The Board lacks jurisdiction to consider the Complaint because BNSF does not have market dominance over the transportation to which the challenged rates apply.
2. The challenged rates are reasonable.

**WHEREFORE**, BNSF requests that the Complaint be dismissed with prejudice and that no relief of any kind be awarded to Otter Tail, that BNSF be awarded its costs, and that the Board grant BNSF such other and further relief as may be appropriate.

Respectfully submitted,



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January 22, 2002

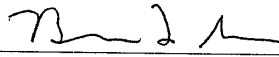
**CERTIFICATE OF SERVICE**

I hereby certify that on January 22, 2002, a true and correct copy of the foregoing document was served by hand on:

Nicholas J. DiMichael  
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and by express overnight mail, upon:

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